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SUPREME COURT, U.S.
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No. 86

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1958

JESSE I. LINDER,
Appellant,

vs.

HOWARD B. COLLINS, LEONARD PILGER, and GEORGE L. BARTON, as members of The Board of County Commissioners of Wallace County, Kansas; E. L. RIVERS, ED V. MORIN, GLEN HUFFMAN, GEORGE HARRISON and EARL TEED, as members of The Board of Hospital Trustees of Wallace County, Kansas; C. E. SWANSON, as County Clerk of Wallace County, Kansas; BONNIE KNOUSE, as County Treasurer of Wallace County, Kansas; and JAMES W. BIBB, as the Budget Director of the State of Kansas,
Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS.

PETITION FOR REHEARING.

JESSE I. LINDER pro se,
Sharon Springs, Kansas,
Attorney for Appellant.

OF COUNSEL:
JOHN J. YOWELL,
G. KENT YOWELL,
29 South La Salle Street,
Chicago 3, Illinois.

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PETITION FOR REHEARING.

Appellant, for his petition herein, states that the Court should and ought to vacate its Order of October 13, 1958, affirming the judgment of the District Court and grant unto appellant a rehearing upon his Jurisdictional Statement filed herein for the following reasons:

1. That although the gravamen of appellant's action is the alleged violation of his civil rights which are secured to him by the Constitution of the United States and by the Acts of Congress without regard to citizenship or the diversity thereof and without regard to a minimum money jurisdictional amount the District Court decreed that:

> *" . . . even though the violation of civil rights is alleged, in the absence of diversity of citizenship and $3,000.00 involved this Court has no jurisdiction because Congress has withheld jurisdiction in that sort of a case except where there is diversity of citizenship and the $3,000.00 involved."*

2. That the tax involved in this action, not being the gravamen thereof and being less than three dollars in amount, is of microscopic importance; that this Court has heretofore repeatedly held that in cases where alleged violation of civil rights is the gravamen of the action that the courts of the United States have jurisdiction to not only redress the wrong concerning civil rights but to otherwise grant full relief to a complainant and that the District Court erred in dismissing this case for want of jurisdiction and in holding that it would *"leave to the State Courts the province of declaring that Statute unconstitutional."*, as against the Constitution of the United States and

3. That in view of this Court's disposition of other civil rights cases clearly not involving diversity of citizenship or a jurisdictional amount the affirmance of the judgment of the District Court in this case appears to be a clerical oversight that should and ought to be corrected.

WHEREFORE, the premises considered, appellant prays for an order of this Court vacating its said Order of October 13, 1958, affirming the judgment of the District Court and for a further order decreeing that another hearing or a rehearing be had upon appellant's said Jurisdictional Statement.

Respectfully submitted.

JESSE I. LINDER, pro se,
Sharon Springs, Kansas,
Attorney for Appellant.

OF COUNSEL:

JOHN J. YOWELL,
G. KENT YOWELL,
29 South LaSalle Street,
Chicago 3, Illinois

CERTIFICATE OF COUNSEL.

STATE OF KANSAS, COUNTY OF WALLACE, SS:

Jesse I. Linder, the affiant herein, of lawful age, after having been first duly sworn upon his oath deposes and says: that he is one of the members of counsel for the appellant named in the within, foregoing and attached Petition For Rehearing In The Supreme Court Of The United States, to which he subscribed his name as such counsel; that he understands and knows the contents of said petition; that the statements and allegations therein contained are true and correct as he is informed and verily believes and that said petition was prepared for presentation to The Supreme Court of the United States in good faith and not for the purpose of delay.

Jesse I. Linder,
Affiant.

The within, foregoing and attached instrument of writing was subscribed and sworn to before me, the undersigned Notary Public by the within named Jesse I. Linder, on this 29th day of October 1958.

Beatrice Fischer
Notary Public of Wallace County, Kansas

(SEAL)

My Commission expires October 10, 1959.